

**APPROVED MINUTES
SUNNYVALE CITY COUNCIL
TUESDAY, FEBRUARY 26, 2008**

5 P.M. SPECIAL COUNCIL MEETING (Study Session) - Council Meeting Security

5:30 P.M. SPECIAL COUNCIL MEETING (Study Session) - Equitable Adjustment to Green Team/Zanker Compensation Resulting from Materials Recovery Facility Construction Shutdown

6:15 P.M. SPECIAL COUNCIL MEETING (Closed Session) - Conference with Legal Counsel – Anticipated Litigation. Initiation of litigation pursuant to Government Code Section 54956.9, subdivision (c): 1 potential case

7 P.M. REGULAR MEETING

SALUTE TO THE FLAG

Mayor Spitaleri led the salute to the flag.

ROLL CALL

PRESENT:

Mayor Anthony Spitaleri
Vice Mayor Melinda Hamilton
Councilmember John Howe
Councilmember Otto Lee
Councilmember Ron Swegles
Councilmember Christopher Moylan
Councilmember David Whittum

ABSENT:

None

STAFF PRESENT:

City Manager Amy Chan
Assistant City Manager Robert Walker
City Attorney David Kahn
Director of Community Development Hanson Hom
Planning Officer Trudi Ryan
Deputy Chief Mark Stivers
Finance Manager Budget Grace Leung
Director of Finance Mary Bradley
Intergovernmental Relations Officer Yvette Agredano
Assistant to the City Manager Coryn Campbell
City Clerk Gail T. Borkowski

CLOSED SESSION REPORT FOR FEBRUARY 26, 2008

Vice Mayor Hamilton reported Council met in closed session this evening pertaining to: Conference with Legal Counsel – Anticipated Litigation. Initiation of litigation pursuant to Government Code Section 54956.9, subdivision (c): 1 potential case

Vice Mayor Hamilton reported direction was given but no action was taken.

PUBLIC ANNOUNCEMENTS

Arthur Schwartz, Cool Cities member, updated Council on the number of solar systems that have recently been purchased and explained that the special pricing program will end on Friday. Three vendors are offering this special program and Schwartz explained that more information can be found at *solarsunnyvale.org* or by calling (408) 457-4174. Schwartz explained members of the public will still receive special pricing as long as a site visit is conducted by Friday.

Jeanine Stanek, representing the Historical Society and Museum Association, invited Council to join museum members in viewing a slide show on March 3, 2008. The presentation will follow the construction progress for the Heritage Park Museum.

Stanek stated the grand opening of the museum will be on September 27, 2008. Stanek explained that updates on the museum may be found at *heritageparkmuseum.org*.

CONSENT CALENDAR

Councilmember Whittum pulled Item 1.C.

Councilmember Swegles pulled Item 1.J.

Vice Mayor Hamilton moved and Councilmember Howe seconded to approve the consent calendar with the exception of Items 1.C. and 1.J.

VOTE: 7-0

1.A. Approval of Draft Minutes of January 29, 2008

1.B. Approval of Revised Draft Minutes of February 1, 2008

1.C. Approval of Draft Minutes of February 12, 2008

Councilmember Whittum stated he would like to have text added that states “Kevin Jackson was stopped at three minutes” to the bottom of page 14 in the minutes.

MOTION: Councilmember Whittum moved and Councilmember Swegles seconded approval of the minutes of February 12, 2008 revised to add “Kevin

Jackson was stopped at three minutes” to the last sentence of the paragraph which starts on page 14.

VOTE: 7-0

1.D. Approval of Information/Action Items – Council Directions to Staff

Fiscal Items

1.E. RTC 08–051 List of Claims and Bills Approved for Payment by the City Manager – List No. 388 & 389

Staff Recommendation: Council reviews the attached list of bills.

1.F. RTC 08–050 Payment for Santa Clara County Crime Lab Services

Staff Recommendation: Council approves payment of \$133,747 to the Santa Clara County Office of the District Attorney for crime lab services.

1.G. RTC 08–054 Proposal to Apply for Health Trust Grant for the Sunnyvale Senior Center and Approval of Budget Modification No. 36

Staff Recommendation: Council approves acceptance of any grant funds awarded by the Health Trust to replace and upgrade existing equipment in the senior center fitness room and approve Budget Modification No. 36 in the amount of \$25,000 for FY 2007/08.

Personnel Items

**1.H. RESOLUTION Amendment to the Schedule of Pay of the Salary
RTC 08–059 Resolution: Salary Adjustment for Pay Plan Category A
(applies to Classified Public Safety Dispatchers-in-
Training, Dispatchers, and Senior Dispatchers)**

Staff Recommendation: Council amends Section 2.000 (Pay Plan Category A) of the Schedule of Pay of the Salary Resolution to reflect the new pay rates, effective February 10, 2008.

Contract Items

**1.I. RTC 08–058 Award of Request for Proposals No. F0707-19 to Develop a
Strategic Infrastructure Plan for the Sunnyvale Water
Pollution Control Plant**

Staff Recommendation:

- Council awards a contract to Brown and Caldwell, in the same form as the

- attached draft and in an amount not to exceed \$771,517, to develop a strategic infrastructure plan for the Water Pollution Control Plant; and
- Council approves a project contingency in the amount of \$77,152.

Other Items

1.J. RTC 08–052 Ratification of Council Intergovernmental Committee Appointments

Councilmember Swegles congratulated the mayor on his appointment to the National League of Cities Public Safety Policy and Advisory Committee. Councilmember Swegles stated this is a very important national committee.

Public comments opened at 7:13 p.m.

No speakers.

Public comments closed at 7:13 p.m.

MOTION: Councilmember Swegles moved and Vice Mayor Hamilton seconded to approve staff recommendation: Council ratifies the appointment of Mayor Spitaleri to the National League of Cities' Public Safety and Crime Prevention (PSCP) Policy and Advocacy Committee.

VOTE: 7-0

1.K. RTC 08–056 Frances Street Transit Center Project, Authorization for the City Manager to Execute an Operations and Maintenance Agreement with the Santa Clara Valley Transportation Authority

Staff Recommendation: Council authorizes the city manager to execute the attached draft Operations and Maintenance Agreement with the Santa Clara Valley Transportation Authority for the Frances Street Transit Center.

1.L. RTC 08–064 Tasman/Fair Oaks Area Streetscape and Sense of Place Acceptance of Grant Funding from the Santa Clara Valley Transportation Authority and Approval of Budget Modification No. 35

Staff Recommendation: Council authorizes the City Manager to execute the necessary agreements to accept grant funding from the Santa Clara Valley Transportation Authority (VTA) Transportation Fund for Clean Air Program Manager grant program for construction of the Tasman/Fair Oaks Area Streetscape and Sense of Place Enhancement Project and approve Budget Modification No. 35.

**1.M. RTC 08–055 California Department of Transportation Planning Grants
Fiscal Year 2008-09 – Authorization to Submit Grant
Applications**

Staff Recommendation: Council authorizes staff to apply for the two selected Transportation Planning Grants applicable for the East Sunnyvale Land Plan, and the El Camino Real Master Multi-Modal Plan and Design Program. Each of the grant funding requires a local match of 20 percent of the total project cost.

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None.

PUBLIC COMMENTS

Josh Salans, Executive Director of Sustainable Community Gardens, spoke about the accomplishments of Charles Street Gardens Community Garden and Full Circle Farm.

PUBLIC HEARINGS/GENERAL BUSINESS

**2. RTC 08–061 2007-0754 Study Issue: Parking Requirements for Residential
and Commercial Developments**

Planning Officer Trudi Ryan presented the staff report.

Councilmember Moylan stated he did not see that revisiting a parking management plan for the Cherry Orchard shopping center was listed as an alternative and questioned if that is something staff is already planning to do. Planning Officer Ryan confirmed that staff is planning to revisit the parking management plan and has already contacted the center. Councilmember Moylan offered his support of revisiting the plan and stated it will have a positive effect on the community.

Councilmember Howe inquired why staff would offer the discretion to define “guest” to the homeowners association as listed on attachment G (h. ii) when there could be a conflict of interest. Planning Officer Ryan explained that the current zoning code does not have a specific requirement for unassigned spaces to be reserved for guest use only. Previously, the Planning Commission has imposed as conditions of approval that a certain percentage of parking would be for guest parking. Planning Officer Ryan stated a minimum of 25 percent would be appropriate for guest parking. Planning Officer Ryan stated the reason to allow the homeowners association to determine the definition of a guest is because that allows flexibility over time for the association to address long-term guests versus short term and what is reasonable.

Councilmember Howe inquired how the homeowner associations will enforce that

the garages will be used for parking and not for storage only. Planning Officer Ryan stated if that requirement is included in the conditions of approval from the beginning that will potentially free up the other parking spaces. Since the homeowners association is onsite, they are able to better keep residents apprised of the issues. Planning Officer Ryan explained that in addition there is an upcoming study issue later this year that will look at conditions of approval along with what tools may be available to promote enforcement of those conditions of approval.

Public hearing opened at 7:33 p.m.

Kevin Jackson, chair of the Bicycle and Pedestrian Advisory Commission (BPAC), speaking on his own behalf, stated the BPAC may be able to offer valuable perspective and a comprehensive study that will best serve the needs of the community. Jackson stated concerns with some items in the report and urged Council to consider sending this report to BPAC for review.

Jim Griffith, President of the Sutton Place Homeowners Association, explained his concerns with the amendments primarily attachment G, Item I.H. (6 and 7). Griffith is concerned with the use of statistics and averages because staff should have the flexibility to deviate from numerical guidelines. Griffith stated he is also concerned that once Covenants, Conditions and Restrictions (CC&R's) are in place, they are extremely difficult to modify. Griffith explained that if authority is given to the homeowners association for enforcement, the belief that enforcement will just happen is an incorrect assumption. Griffith stated homeowner association enforcement is an impractical or financial impossibility for most issues.

Arthur Schwartz stated that garages are essential to meet parking requirements. Schwartz suggested investigating whether there is some way that the homeowner associations could utilize the services of the City in enforcing the parking regulations. Schwarz stated he does not know how that could be done and would leave that to City Attorney David Kahn to investigate further. Schwartz stated he agrees that BPAC should review these amendments because of the long-range goal is to make Sunnyvale green. Schwartz stated the City needs a longer range view of parking requirements.

Public hearing closed at 7:40 p.m.

Councilmember Swegles inquired what the value would be to have BPAC review this study. Planning Officer Ryan stated generally the BPAC advises Council on bicycle and pedestrian issues and the Planning Commission advises the Council on general land use issues. Planning Officer Ryan stated this study has already been reviewed properly by one of the Council's boards and commissions that staff deemed appropriate for this issue, that being the Planning Commission.

Vice Mayor Hamilton inquired if neighborhood preservation has any jurisdiction in these types of developments. Planning Officer Ryan stated staff is offering tools to

homeowner associations in order to help them better manage the onsite parking issues. Planning Officer Ryan explained that if something is clearly in conflict with the zoning requirements or conditions of approval (such as when a garage is converted to living space) then the neighborhood preservation staff does have some jurisdiction.

MOTION 1: Councilmember Howe moved and Councilmember Moylan seconded to approve Alternative 2: Council directs staff to prepare amendments to the zoning code to require clarification of parking rates and to codify parking management requirements, as shown in Attachment G, with additional or modified items:

with modifications as listed:

- Attachment G, Section H, Item ii. to include highlighted language as:
Give property managers/homeowners' association **(with some form of City approval)** the latitude to define "guest," since ultimate enforcement is the responsibility of that entity.
- Attachment G, Section H, Item vi to included highlighted language as:
Confirm the responsibility of the property owner or homeowners' association to enforce provisions of the parking management plan. **Staff to provide the associations with tools for property owners and homeowners associations to carry out their responsibility to enforce provisions of the parking management plan.**

Councilmember Moylan added a policy statement to the motion that:

- **Council directs staff to include in the zoning ordinance that staff will return to Council and makes the following policy statement: It is the purpose of this chapter to insure that all uses of a property provide sufficient onsite parking to handle demand.**

Councilmember Howe agreed that the policy statement will be part of his motion.

Councilmember Whittum offered a friendly amendment to have the amendments reviewed by BPAC and then the Planning Commission.

Councilmember Howe stated he would prefer that item stand as a separate motion and did not accept the friendly amendment.

VOTE: 7-0

MOTION: Councilmember Whittum moved and Councilmember Lee seconded approval that the Bicycle and Pedestrian Advisory Commission (BPAC) shall review the amendments prior to Planning Commission review.

Councilmember Whittum stated he supports comments made earlier by the member of the public, Kevin Jackson, regarding the need for this item to be reviewed by BPAC. Councilmember Whittum stated this provides an opportunity to

look for removal of on-street parking in new developments and look for ways to improve safety for bicyclists. Councilmember Whittum stated the comments are purely advisory and will not slow the process down at all.

Councilmember Moylan stated that this is a zoning code amendment which addresses the calculation as to how many parking spaces are allowed for each property and is reviewed by the Planning Commission. Councilmember Moylan stated the approved policy statement he just added to the previous motion, stated that on-street parking cannot be relied on for developments. Whatever the property, all parking needs to be taken care of inside the project. Councilmember Moylan stated he is unclear why BPAC should get involved with something that is not happening on the street at all.

Councilmember Whittum stated it would be helpful to have BPAC's input to explore opportunities to move on-street parking to make it safer for bicyclists.

VOTE: 3-4 (Councilmembers Swegles, Howe, Vice Mayor Hamilton, and Mayor Spitaleri dissented)

Motion failed.

3. RTC 08-060 Options for Dealing with Extraordinary Public Safety Responses to Large Gathering Places and Entertainment Venues (Study Issue) and New Permit Requirements for Special Events

Deputy Chief Mark Stivers presented the staff report.

Councilmember Howe inquired how the City would enforce fines and Deputy Chief Stivers stated the administrative processes for the collection and establishment has yet to be developed. Deputy Chief Stivers stated the proposed ordinance would create the authority (and assist) in the collection of fines.

Councilmember Moylan asked for an explanation of a clandestine activity and how this ordinance would be effective with such activity. Deputy Chief Stivers stated this ordinance would be effective with respect to the extraordinary response piece of the fee. Deputy Chief Stivers stated that oftentimes business owners believe they are renting for a certain purpose but it turns out to be something else with a much larger group and other times the owner is aware of the event, but does not share that information with the City. Public safety is required to use traditional means to shut down these incidents and often the fire code is used for justification. Deputy Chief Stivers stated this ordinance will give public safety staff the tools to deal and be made aware of these types of events.

Councilmember Moylan inquired if there are larger fees charged to those events which attempt to slide by without notifying the City. Deputy Chief Stivers stated fees are looked at on a case-by-case basis as to whether the person was fully

aware or had been taken advantage of and the fees are adjusted accordingly.

Councilmember Lee inquired how successful has collection of the fees been and Deputy Chief Stivers stated previous examples where fees have been collected. Deputy Chief Stivers stated that staff is attempting to build a process up front for successful events and not have to issue billings.

Deputy Chief Stivers offered an explanation as to the two ways to enact an extraordinary response. One way would be when public safety goes out to a location six times or more for service calls, then the City can require a management plan of their establishment. The second way for enactment for the extraordinary response would be if public safety had a large response to a single event (five or more officers).

Councilmember Swegles inquired that if there is a large crowd expected would shuttle service be required. Deputy Chief Stivers stated shuttle service is not included as part of the ordinance; however that is an option under the permit procedure for traffic control plans.

Public hearing opened at 8:02 p.m.

No speakers.

Public hearing closed at 8:02 p.m.

MOTION: Councilmember Swegles moved and Councilmember Howe seconded to approve Alternative 4: Council adopts Sunnyvale Municipal Code 9.45 Special Event Permit and Chapter 9.47 Extraordinary Public Safety Service Liability

Councilmember Whittum offered a friendly amendment to correct page 9, 9.47.030, paragraph (c) to correct the reference to City of San Buenaventura to City of Sunnyvale.

Friendly amendment accepted.

Vice Mayor Hamilton inquired as to whether the City could deny a free speech event. City Attorney Kahn stated that the City could deny a free speech event under limited circumstance where there is a strong public safety concern. City Attorney Kahn gave an example of an event such as the City receiving notice four or five hours prior to the proposed event that the organizers wanted to close down a major street, then the City would have the ability as a matter of a public safety concern to work with the organizers to reschedule the date or come up with an alternative venue.

Vice Mayor Hamilton inquired what would happen to someone who holds a free speech event but they did not apply for a permit and staff found about it as it was happening. City Attorney Kahn stated that would be a public safety issue and they

would be within their rights to limit that event. City Attorney Kahn stated there are a number of public forums that would be available where people have the right to present viewpoints without prior notice and they would be directed to those forums. Deputy Chief Stivers added that officers would resort to traditional means of safety such as keeping people out of traffic.

City Clerk Borkowski read the title of the ordinance into the record.

Restated MOTION: Councilmember Swegles moved and Councilmember Howe seconded to approve Alternative 4: Council adopts Sunnyvale Municipal Code 9.45 Special Event Permit and Chapter 9.47 Extraordinary Public Safety Service Liability **with** correction to the ordinance on page 9 , Section 9.47.030 Security and Safety Plan (c) to read City of Sunnyvale instead of the City of Buenaventura.

VOTE: 7-0

4. RTC 08-062 Approval of Budget Priority Setting Tool, Process, and Schedule and Appointment of Council Sub-Committee

Finance Manager Budget Grace Leung presented the staff report.

Councilmember Moylan inquired if the full Council would take longer than the sub-committee in reviewing the items. Finance Manager Leung stated the sub-committee would require less time. City Manager Chan explained further that if Council goes along with the sub-committee's recommendation the time will be shorter. However, if the full Council has a large amount of dialogue or questions of the sub-committee, then potentially the time commitment for the full Council and sub-committee would be just as long as if the entire Council had considered the items.

Public hearing opened at 8:12 p.m.

Rose Kausek, Chair of Heritage Preservation Commission, speaking on her own behalf, stated a concern over the ranking criteria because timeliness is sometimes very important, especially for the Heritage Preservation Commission. Most issues the commission deals with are time sensitive and it is not apparent that those items would rise any higher than the mid-range. Kausek requested that the time sensitive nature of those items be considered in the ranking process.

Public hearing closed at 8:13 p.m.

Councilmember Lee inquired how Council would handle items of more urgent matters when it comes to funding. Director of Finance Mary Bradley stated this tool is to work with the budget process and if something were more urgent that would be taken up separately.

Councilmember Howe confirmed that this process would still include the all-day Council workshop on the budget. Councilmember Howe confirmed that the sub-committee would be limited to ranking items only for priority. Councilmember Howe further confirmed that the ranking of items would then come back to Council to be approved and in addition anything to do with actual budget issues would be done at the Council all day budget workshop and not by the sub-committee. Finance Manager Leung stated that the purpose of the timing for the subcommittee is to allow enough time to have all the items ranked by the subcommittee in order to be presented for Council consideration at the workshop.

Councilmember Howe confirmed with Director Bradley that the information is woven into the process in order to assist the subcommittee as to the number of people involved with the issue which affects the ranking. Higher number of people affected would create a higher ranking.

Vice Mayor Hamilton stated the staff recommendation is silent on whether this sub-committee should be staff or Council appointed sub-committee and she wanted to raise that issue for discussion and or to be included in a motion.

MOTION: Councilmember Howe moved and Vice Mayor Hamilton seconded to approve Alternatives 1, 3 and 5:

Alternative 1: Council approves the ranking criteria as detailed in Attachment A and B

with the addition that Council directs staff to include in the ranking criteria the number of people who will be involved with the issue.

Alternative 3: Council creates and appoints no more than three Councilmembers to a sub-committee to review the proposed priority rankings for all City services and projects

Alternative 5: Council approves the proposed implementation schedule as detailed in this report.

Councilmember Moylan offered a friendly amendment that the sub-committee is free to propose modifications to the criteria as well as to rank all the projects.

Councilmember Howe accepted the friendly amendment.

City Manager Chan stated if the sub-committee were to form this evening, staff would request they meet as soon as possible. The schedule is very tight and staff would begin working on the criteria tomorrow. City Manager Chan explained her concern if criteria was decided at a later date, staff would be well on their way to completion of the ranking based on the criteria. City Manager Chan stated it is very important to know the criteria before staff begins working on this project.

Councilmember Howe removed his acceptance of the friendly amendment.

Councilmember Howe confirmed that Councilmember Whittum was the only Councilmember interested in serving on the sub-committee and he removed the sub-committee from his motion.

Councilmember Moylan stated the whole idea is to allow Council a tool to assist with budgetary decisions. Councilmember Moylan stated ranking the budget items is a critical task that is needed and he would have signed up to serve on the sub-committee but he is already on a sub-committee. Councilmember Moylan explained that in order to have this done for the big budget meeting coming up, it would be great if three Councilmembers could step up to serve on this sub-committee. Councilmember Moylan stated he also did not think it would be a burden for the sub-committee to adjust the criteria right away so staff could move forward.

Vice Mayor Hamilton agrees there should be a sub-committee and stated she has time constraints but will volunteer to be on the sub-committee as she does not want the full Council to have to deal with this because that would delay the process.

Mayor Spitaleri volunteered to serve on the sub-committee.

Councilmember Howe stated his motion is to include the sub-committee consisting of the mayor, vice-mayor and Councilmember Whittum.

Restated MOTION: Councilmember Howe moved and Vice Mayor Hamilton seconded to approve Alternatives 1, 3 and 5:

Alternative 1: Council approves the ranking criteria as detailed in Attachment A and B

with the addition that Council directs staff to include in the ranking criteria the number of people who will be involved with the issue.

Alternative 3: Council creates and appoints no more than three Councilmembers to a sub-committee to review the proposed priority rankings for all City services and projects

with Council appoints Mayor Spitaleri, Vice Mayor Hamilton and Councilmember Whittum to a sub-committee to review the proposed priority rankings for all City services and projects.

Alternative 5: Council approves the proposed implementation schedule as detailed in this report.

City Manager Chan stated it is anticipated that the sub-committee's work will be completed and before the full Council by the end of April 2008.

VOTE: 7-0

5. RTC 08–065 Adoption of 2008 Tentative Council Meeting Agenda Calendar and Budget Modification No. 34

Intergovernmental Relations Officer Yvette Agredano presented the staff report.

Intergovernmental Relations Officer Agredano noted an error on the staff report attachment A, under the agenda items listed for this evening. The Resolution for Service Contractor Code of Conduct was still listed for tonight's meeting; however, this item had been pulled off the agenda. Intergovernmental Relations Officer Agredano explained that Council may at this time give direction to the city clerk for a new date for this item to be placed on the agenda.

Intergovernmental Relations Officer Agredano noted that the review of the City's Code of Ethics for Elected and Appointed Officials and the Council's Code of Conduct were inadvertently left off the Tentative Council Meeting Agenda Calendar. These two agenda items are currently scheduled for the April 8, 2008 Council meeting.

Councilmember Moylan requested the budget workshop be moved from Thursday, May 22 to Wednesday, May 21 due to his work schedule.

Vice Mayor Hamilton stated Wednesdays and Fridays are not good days for her due to her schedule.

Public hearing opened at 8:31 p.m.

No speakers.

Public hearing closed at 8:32 p.m.

Mayor Spitaleri requested the Pet Parade event be removed from the study issues. Mayor Spitaleri explained that he would like the event to be handled similar to the long-term resident event in which corporate sponsors and volunteers assist with the event. Mayor Spitaleri stated he will lead the efforts for this event.

Councilmember Moylan stated study issues are only addressed by Council at the study issues workshop. Councilmember Moylan suggested Mayor Spitaleri move forward with the event but leave the item on the study issues list as it is currently (below the line). Councilmember Moylan stated if Mayor Spitaleri is successful in holding the event, then next year Council can drop the item during the study issues workshop.

Councilmember Howe asked the city attorney if the study issue being discussed can be dropped at this time with a motion, or if staff can be directed not to put any effort into the event.

City Manager Chan stated this is not a legal matter; rather it is a process issue. City Manager Chan stated Councilmember Moylan is correct; however, if there is one issue that Council wants to remove, a motion can be made to remove an item off the study issues list. City Manager Chan recognized that Mayor Spitaleri is attempting to let Council and staff know that he would like to work on the Pet Parade event on his own.

MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve Alternatives 1a and 2 a:

Alternative 1a: Council approves the calendar as submitted (Attachment A)

Alternative 2a: Council approves Budget Modification No. 34 as submitted.

City Manager Chan stated that in order to accommodate Councilmember Moylan's work schedule, staff can reschedule the Budget Workshop to any day of the week from May 19 through May 23, 2008.

Vice Mayor Hamilton proposed moving the Budget Workshop to Friday, May 23, 2008.

Councilmember Howe and Councilmember Swegles accepted the proposal to change the budget workshop to Friday, May 23, 2008.

Restated MOTION: Councilmember Howe moved and Councilmember Swegles seconded to approve Alternatives 1a and 2 a:

Alternative 1a: Council approves the calendar as submitted (Attachment A)

Alternative 2a: Council approves Budget Modification No. 34 as submitted

with Council moves the Budget Workshop from Thursday, May 22, 2008 to Friday, May 23, 2008.

VOTE: 7-0

6. RTC 08-063 2008 Priority Issues and Legislative Advocacy Positions (LAP) and Revised Lap Policy 7.3.2

Intergovernmental Relations Officer Yvette Agredano presented the staff report.

Councilmember Whittum inquired about Public Safety 4.1(6) (Support legislation that allows cities to collect fees to recover costs associated with providing 911 Emergency Communications Services). Councilmember Whittum asked staff to explain what the City is advocating for with respect to this legislative position.

Councilmember Whittum stated he is under the impression Land Use and Transportation Item A2. (Seek local policy participation on regional rail projects and support efforts to bring light rail or other fixed guideway or rapid transit service to downtown Sunnyvale) is obsolete. Councilmember Whittum questioned if *light rail or fixed guideway* should be lined out and whether *bus red rapid transit* should be added.

Councilmember Swegles explained that the reason for not removing the text *light rail of fixed guideway* is because it serves as a hammer to get rapid transit. Councilmember Whittum agreed to leave that section in the policy.

Councilmember Whittum inquired about Public Safety Item A7. (Support the ability of local government to benefit from federal adoptive seizure programs for drug-related enforcement and educational purposes. Oppose measures to modify or restrict forfeiture and seizure laws for drug arrests). Councilmember Whittum inquired if the City has any policy against or for medical marijuana. City Manager Chan stated the City does not have a policy.

City Manager Chan stated the intent of the 911 fee is to have the City support the fee. Council previously approved the fee in concept, but Council action stated the fee was not to be implemented pending resolution of current litigation on the fee versus tax issue. Councilmember Whittum confirmed with the city manager that this issue will return to Council for action.

Councilmember Whittum inquired about Planning and Management, Fiscal Management Item A7 (Oppose extension of Internet tax moratorium; support efforts to simplify remote collection of sales and use taxes). Councilmember Whittum stated he does not oppose the extension of the Internet tax moratorium and inquired if the City actually is opposing this extension or did staff mean to state that the City supports this item.

City Manager Chan stated there is currently a moratorium on that tax and the City is not in favor of the extension of the moratorium because it will cause the City to lose more revenue. Councilmember Whittum stated the loss of tax revenue would have microscopic effects on actual revenue to the City as opposed to stifling commerce on the internet which could have macroscopic effects on the City. Councilmember Whittum explained how the enormous growth of the internet has benefited Sunnyvale and that growth should be fostered.

Councilmember Whittum inquired why the National League of Cities Item 2008-21 (Food and Drug Administration (FDA) Regulation of Tobacco) is important to the City. Councilmember Whittum explained that asking the FDA to do more is really up to the resources that the FDA has available.

Councilmember Whittum inquired as to what the National League of Cities Item 2008-26 (Health Care Costs) has to do with the City of Sunnyvale.

Assistant to the City Manager Coryn Campbell explained that the two items from the National League of Cities are positions that Council took at the time of the annual conferences and those positions have become part of the City's policies. Assistant to the City Manager Campbell stated staff has taken both the League of California Cities and the National League of Cities policy resolutions out of the body of the policy because they are not specific to the City of Sunnyvale. Assistant

to the City Manager Campbell further explained that although these resolutions are specific to a larger organization, the City has taken a position on them in the past.

Public hearing opened at 8:49 p.m.

Jim Griffith, chair of the Board of Library Trustees, speaking on his own behalf, stated a new library construction bond Senate Bill (SB) 1516 has been proposed; however, it came about too late for the Board of Library Trustee's consideration prior to tonight's Council meeting. Griffith stated this legislation would enact the California Reading and Literacy Improvement and Public Library Construction and Renovation Act of 2010. Griffith stated this is of particular importance to the City of Sunnyvale given the state of the City's library. Griffith stated he is bringing this to Council's attention as they may want to make this specific bill a legislative priority issue.

Public hearing closed at 8:50 p.m.

Councilmember Swegles inquired if Council can add in support for SB 1516 to the legislative positions. Intergovernmental Relations Officer Agredano stated this item is currently a legislative advocacy position and is listed on page 21 of Attachment A3. Intergovernmental Relations Officer Agredano stated Council could add this to their priority legislative issues list.

City Manager Chan explained that Council generally does not take action on any specific bills; rather Council takes action on policy advocacy positions. City Manager Chan stated the speaker requested that Council consider adding this to Council's priority watch list. Councilmember Swegles stated he would like to have this item added to the priority watch list. City Manager Chan explained that in order to add it to the priority list, Council action would be required.

MOTION: Councilmember Swegles moved and Councilmember Lee seconded to approve Alternative 1a, b, c, d and e:

- a) Revised Council Policy 7.3.2 (Attachment A)
 - b) Proposed 2008 Priority Issues (Attachment A2)
 - c) Proposed 2008 Legislative Advocacy Positions (Attachment A3)
 - d) Reference Attachment (Attachment A4)
 - e) 2008 LCC and NLC Resolutions (Attachments A5); and
- with** Council approves adding Senate Bill (SB)1516 (Library Construction Bond) to the priority watch list

Councilmember Moylan offered a friendly amendment to include the following item in the motion:

Council includes in the Legislative Advocacy Positions (LAP) advocacy that the City agrees with the League of California Cities that local control should be paramount in all things; however, the City supports and exception for government functions where regional control may be more appropriate for services delivered on a regional basis (items such as transportation and water district).

Councilmember Swegles asked for staff input. Assistant City Manager Walker stated staff would request for this item, that the language be crafted very carefully and is specific in nature.

Councilmember Moylan stated he relies on the city attorney for assistance with the language; however, it is his intent to advocate local control of almost everything but that an exception could be made for governmental services that are inherently regional in nature. Councilmember Moylan stated the lowest level of government that offers the service is able to say how it is done.

City Manager Chan stated her understanding of what Councilmember Moylan is asking for is to have local control at the lowest governmental entity which could be local or regional. City Manager Chan stated staff can work on the language.

Councilmembers Swegles and Lee accepted the friendly amendment.

Councilmember Moylan offered a friendly amendment to include the following item in the motion: Add a priority watch on CO₂ emissions cap.

Councilmember Moylan stated CO₂ emissions cap is something coming in the future and will certainly affect Sunnyvale.

Assistant to the City Manager Campbell stated this item is already included in the priority watch issues as AB 32. City Manager Chan requested staff add (CO₂) emissions cap to the environmental green regulations as part of Priority Watch Issue No. 2: Environmental Regulatory and Conservation Issues.

Councilmembers Swegles and Lee accepted the friendly amendment.

Councilmember Moylan offered a friendly amendment to include the following item in the motion: Include a Legislative Advocacy Position to update the Solar Shade Control Act to try to minimize issues the City of Sunnyvale has previously experienced.

Councilmember Swegles deferred to the city attorney. City Attorney Kahn stated that issue is already a study issue for this coming year. Councilmember Moylan explained his intent is to merely lobby support in updating the act. City Attorney Kahn stated he is not aware that there are currently any considerations to revise the solar shade act, but Council can certainly choose to take a position on this item.

Councilmember Moylan suggested that Council take a legislative advocacy position to encourage an update of the act as it will be coming up in the future.

Councilmembers Swegles and Lee accepted the friendly amendment.

Councilmember Moylan offered a friendly amendment to include the following item in the motion: Council to take a legislative action position to advocate that all ballot measures be passed by majority vote.

Intergovernmental Relations Officer Agredano clarified that Councilmember Moylan is not actively asking the City to sponsor legislation, rather to support legislation.

Councilmembers Swegles and Lee accepted the friendly amendment

Councilmember Whittum stated "I'd like to suggest modifying Councilmember Moylan's majority voting rule to everything except ad valorem taxes on real estate."

Councilmember Swegles stated that is a state issue and if it were to happen that would be fine but he does not believe that issue will ever change.

Councilmember Whittum asked Councilmember Moylan if his amendment was to remove the two-thirds requirement to pass ballot measures. Councilmember Moylan stated that was correct and explained that if more than 50 percent of the voters want to pass a ballot item, they would then get their way.

Councilmember Whittum withdrew his friendly amendment.

Councilmember Howe asked Councilmember Swegles to remove the last friendly amendment regarding majority voting and make a separate motion instead.

Councilmember Swegles rejected Councilmember Howe's request and stated the motion includes all friendly amendments.

Restated MOTION:

Councilmember Swegles moved and Councilmember Lee seconded to approve Alternative 1a, b, c, d and e:

- a) Revised Council Policy 7.3.2 (Attachment A1)
- b) Proposed 2008 Priority Issues (Attachment A2)
- c) Proposed 2008 Legislative Advocacy Positions (Attachment A3)
- d) Reference Attachment (Attachment A4)
- e) 2008 LCC and NLC Resolutions (Attachments A5)

with

- Council approves adding Senate Bill (SB) 1516 (Library Construction Bond) to the priority watch list.
- Council approves including a Legislative Advocacy Position (LAP) that the City agrees with the League of California Cities that local control should be paramount in all things; however, the City supports an exception for government functions where regional control may be more appropriate for services delivered on a regional basis. Local control at the lowest governmental entity which could be local or regional.

- Council approves adding “(CO₂) emissions cap” to the environmental green regulations as part of Priority Watch Issue No. 2: Environmental Regulatory and Conservation Issues.
- Council approves inclusion of a Legislative Advocacy Position to encourage updating the Solar Shade Control Act.
- Council approves supporting legislation that advocates for all ballot measures to be passed by majority vote.

City Attorney Kahn stated that some ballot measures require a two-thirds vote and are part of the constitution and a change to that would require a constitutional change before they could be modified. Councilmember Moylan stated he understands that component and admittedly that change is unlikely. Councilmember Moylan stated his proposal is a statement of support should a change ever occur.

Councilmember Whittum stated he is not in agreement with supporting legislation against the two-thirds vote for ballot measures. Councilmember Whittum stated he will not support the motion because of that item.

Councilmember Swegles explained to Councilmember Whittum that support of a majority vote is just a wish list item and that it would take a constitutional amendment to change that requirement.

VOTE: 5-2 (Councilmembers Howe and Whittum dissented)

NON-AGENDA ITEMS & COMMENTS

COUNCIL: Vice Mayor Hamilton stated she would like to sponsor a study issue that would consider a requirement for the installation of water-permeable concrete in new developments for parking lots.

Councilmember Swegles requested time at the closing of the meeting.

STAFF: None.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- RTC 08-057 Board and Commission Resignation
- RTC 08-053 Opportunity for Council to Appeal Decisions of the Planning Commission Meeting of February 11, 2008 and the Administrative Hearing of February 13, 2008
- Study Session Summary – Revised Plans for Redwood Square (Town Center Redevelopment Project)
- Draft Minutes of the Bicycle and Pedestrian Advisory Commission Meeting for November 15, 2007
- Revised Minutes of the Bicycle and Pedestrian Advisory Commission Meeting for November 15, 2007

- Draft Minutes of the Parks and Recreation Commission Meeting of December 12, 2007
- Draft Minutes of the Arts Commission Meeting of January 16, 2008
- Draft Minutes of the Bicycle and Pedestrian Advisory Commission Meeting for Special Meeting on January 31, 2008
- Draft Minutes of the Board of Library Trustees Meeting of February 4, 2008
- Draft Minutes of the Heritage Preservation Commission Meeting of February 6, 2008

ADJOURNMENT

Mayor Spitaleri adjourned the meeting at 9:10 p.m. in memory of Councilmember Swegles father, James R. Swegles. Mayor Spitaleri turned the meeting over to Councilmember Swegles. Councilmember Swegles gave tribute to his father's life. Mayor Spitaleri called for a moment of silence.

Gail T. Borkowski
City Clerk

Date